

**JUSTICE OF THE PEACE COURT OF THE STATE OF DELAWARE
IN AND FOR KENT COUNTY
COURT NO. 16**

GM GOVERNORS PLACE LLC
Plaintiff Below,
Appellant

VS

BEATRICE WOLO
Defendant Below,
Appelle

§
§
§
§
§
§
§
§
§

C.A. No. JP16-22-008105

TRIAL DE NOVO

Case Heard: April 21, 2023

Case Decided: April 28, 2023

APPEARANCES:

Plaintiff, GM Governor's Place LLC, appeared represented by Form 50 agent April Patterson
Defendant, Beatrice Wolo, appeared pro se

Alexander Montano, Justice of the Peace
William Edmanson, Justice of the Peace
Michael Sherlock, Justice of the Peace

**JUSTICE OF THE PEACE COURT OF THE STATE OF DELAWARE
IN AND FOR KENT COUNTY
COURT NO. 16**

CIVIL ACTION NO: JP16-22-008105

GM GOVERNORS PLACE LLC VS BEATRICE WOLO

ORDER ON TRIAL DE NOVO

On April 21, 2023, this Court, consisting of the Honorable Michael P. Sherlock, the Honorable W.G. Edmanson, and the Honorable Alexander J. Montano acting as a special court pursuant to 25 *Del C.* § 5717(a)¹, convened a trial *de novo*² in reference to a complaint filed by GM Governor's Place LLC. ("Plaintiff") against Beatrice Wolo ("Defendant"). The complaint alleges violation of Delaware's landlord-tenant code, and Plaintiff seeks summary possession, back rent, and Court costs. Plaintiff and Defendant appeared by zoom and participated in virtually. At the conclusion of trial, the Court announced its decision from the bench finding in Defendant's favor. This is the Court's written decision.

BACKGROUND

Plaintiff filed a complaint, on December 15, 2022, seeking summary possession of the rental lot located at 206 Providence Drive, Smyrna, Delaware. The initial filing is regarding a 5-day Demand for Rent Notice, issued to the Defendant on December 6, 2022. Trial was held on February 6, 2023, and a decision was rendered in favor of the Defendant on February 17, 2023.³ Plaintiff then filed a timely appeal on February 23, 2023, seeking a *trial de novo* by a three-judge panel. Trial by the three-judge panel was held on April 21, 2023.

¹ 25 *Del C.* § 5717(a). *Nonjury trials*. With regard to nonjury trials, a party aggrieved by the judgment rendered in such proceeding may request in writing, within 5 days after judgment, a trial *de novo* before a special court comprised of 3 justices of the peace other than the justice of the peace who presided at the trial, as appointed by the chief magistrate or a designee, which shall render final judgment, by majority vote.

² *De Novo* trial. Trying a matter anew; the same as if it had not been heard before and as if no decision had been previously rendered. *Black's Law Dictionary* (11th ed. 2019).

³ *GM Governor's Place LLC. v. Beatrice Wolo*, Del. J.P., C.A. No. JP16-22-008105, Hicks, J. (Feb. 17, 2023).

VIEW YOUR CASE ONLINE: <https://courtconnect.courts.delaware.gov>

EVIDENCE

April Patterson (Plaintiff's Property Manager) appeared as representative on behalf of Plaintiff. Ms. Patterson testified Plaintiff provided Defendant with a 5-day Demand for Rent Notice, and then motioned the Court to mark exhibits "A" through "J". The Court explained Plaintiff would have to provide the legal foundation for each piece of evidence and that Plaintiff could not just list all exhibits, at once. Plaintiff, however, rested her case. The Defendant declined the opportunity to ask questions through cross-examination of Plaintiff.

The Court took a brief recess. After reconvening, the Court asked Plaintiff if she was certain she had no further testimony. Plaintiff confirmed she had nothing further to present and, again rested her case. The Court concluded Plaintiff had failed to meet the evidentiary burden of proof.

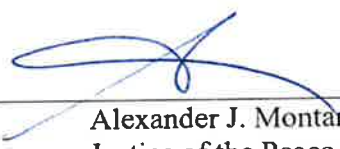
DISCUSSION

Delaware Rule of Evidence 901(a) requires litigants authenticating or identifying an item of evidence to "produce evidence sufficient to support a finding that the item is what the proponent claims it is". In this instance, Plaintiff did not authenticate or identify any of the documents offered as exhibits, through testimony or otherwise. Plaintiff did not explain or discuss in any way how the exhibits related to Plaintiff's case. Plaintiff provided no testimony related to the complaint allegations, other than a brief reference to a demand letter sent to Defendant. The burden of proof rests upon Plaintiff because Plaintiff brought the action and is seeking a remedy from the Court. Plaintiff did not provide sufficient evidence to prove Plaintiff's case by a preponderance of the evidence. Plaintiff failed to establish there was a landlord/tenant relationship between the parties, that Defendant was put on notice, that Defendant failed to cure the matter of past due rent, and that Plaintiff is entitled to possession of the rental property.

CONCLUSION

After considering the evidence presented, the Court finds Plaintiff failed to prove the case by a preponderance of evidence and issues a unanimous decision dismissing with prejudice the case in favor of Defendant.

IT IS SO ORDERED 28th day of April, 2023



Alexander J. Montano
Justice of the Peace
FOR THE COURT

(SEAL)

Information on post-judgment procedures for default judgment on Trial De Novo is found in the attached sheet entitled Justice of the Peace Courts Civil Post-Judgment Procedures Three Judge Panel (J.P. Civ. Form No. 14A3J).

VIEW YOUR CASE ONLINE: <https://courtconnect.courts.delaware.gov>